

## **REMARKS**

### **I. Status of Claims**

Applicants have amended claims 1 and 8 to incorporate recitations of claim 3 and have cancelled claim 3 without prejudice or disclaimer of its subject matter. Upon entry of this Amendment, claims 1 and 6-23 will remain pending, with claims 1, 6-9, and 13-23 under current examination and claims 10-12 withdrawn from consideration.

In the Office Action<sup>1</sup>, the Examiner rejected claims 1, 8, 15, and 16 under 35 U.S.C. § 102(e) as being anticipated by Tsukagoshi, U.S. Pat. No. 7,313,072 ("Tsukagoshi"). The Examiner objected to claims 3, 6, 7, 15, and 20-23 as being dependent upon rejected base claim 1 but indicated these claims would be allowable if they would be rewritten in independent form including all of the limitations of the base claim and any intervening claims. In addition, the Examiner indicated<sup>2</sup> that claims 8, 9, 13, 14, and 16-19 are allowable over the prior art.

### **II. Rejection under 35 U.S.C. § 102(e)**

Without acceding to the Office Action's characterization of claims 1, 8, 15, and 16 or Tsukagoshi, Applicants submit that claims 1 and 8 have been amended to include recitations of now-cancelled claim 3, which the Examiner identified as reciting allowable subject matter. Office Action at 5. With regard to the recitations of cancelled claim 3,

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

<sup>2</sup> Although the Examiner indicated that claim 8 is allowable over the prior art in paragraph 7 on page 5 of the Office Action, he did not mention claim 8 in his statement of reasons for the indication of allowable subject matter on pages 5-8 of the Office Action. In view of this, and because claim 8 was rejected under 35 U.S.C. § 102(e), Applicants are unsure whether the Examiner intended to include claim 8 (and claim 16 which depends from claim 8) in the list of allowable claims in paragraph 7 on page 5 of the Office Action. Nevertheless, as explained in section II of this paper, Applicants submit claims 8 and 16 should be allowable.

which are now included in amended claims 1 and 8, the Examiner noted that “the prior art of record fails to teach or fairly suggest the recording layer includes a high optical density layer and a low optical density layer corresponding to the signal light, and the high optical density layer is arranged on the incident side relative to the low optical density layer.” Id. Accordingly, Applicants submit that, as amended, independent claims 1 and 8 should be allowable. Claims 15 and 16, which depend from claim 1 and 8, respectively, also should be allowable. Applicants, therefore, request reconsideration and withdrawal of the rejection of claims 1, 8, 15, and 16.

### **III. Allowable Subject Matter**

Applicants thank the Examiner for indicating that claims 3, 6, 7, 15, and 20-23 contain allowable subject matter. As explained above, amended independent claim 1 should be allowable. Claims 6, 7, 15, and 20-23 also should be allowable at least due to their dependence from claim 1. Applicants request reconsideration and withdrawal of the objection to claims 6, 7, 15, and 20-23.

Applicants thank the Examiner for indicating that claims 8, 9, 13, 14, and 16-19 are allowable.

**IV. Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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